

REMARKS

The Office Action dated September 9, 2005, has been reviewed and the comments of the Patent and Trademark Office have been considered. Prior to this paper, claims 1-18 were pending. By this paper, Applicants do not cancel or add any claims. Therefore, claims 1-18 remain pending.

Applicants respectfully submit that the present application is in condition for allowance for at least the reasons that follow.

Claim Objections

Claims 1, 6, 12, 16, 17 and 18 stand objected to as containing informalities. Applicants have amended these claims, as seen above, and respectfully request reconsideration.

Applicants thank Examiner Walters for proffering suggested modifications to the claims to remove the objections.

Rejections Under 35 U.S.C. § 102

Claims 1-7 and 9-18 stand rejected under 35 U.S.C. §102(a) as being anticipated by Yamaguchi (United States Patent Application Publication No. 2002/0062183). In response, Applicants respectfully submit that the above claims are allowable for at least the reasons that follow.

Applicants rely on MPEP § 2131, entitled "Anticipation – Application of 35 U.S.C. 102(a), (b), and (e)," which states that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." It is respectfully submitted that Yamaguchi does not describe each and every element of any pending claim.

As a preliminary matter, Applicants note that Yamaguchi is the U.S. counterpart to JP2002-171604A, which is referenced in the background section of this application (and assigned to Nissan Motor Co., LTD., the assignee of the present application, as will be discussed in further detail below). Appendix A contains a copy of the front page of JP2002-171604A, with the Japanese patent application numbers present on the face of the JP reference emphasized. These numbers correspond to the Japanese patent application numbers detailed under “Foreign Application Priority Data” in Yamaguchi.

JP2002-171604A is the prior art upon which applicants improve with the present invention. For example, at paragraph 0006, the application specifically states that “the operating point that should be selected when no operating point at which the target fuel consumption rate per power unit is reached exists in a parallel hybrid vehicle is not clarified in the prior art described above,” referring to JP2002-171604A.

* * * * *

Claim 1 recites a controller configured such that “when an operating point at which a fuel consumption rate that is equal to the target fuel consumption rate can be realized is not found, correct the fuel consumption rate relating to driving power with only the fuel consumption rate relating to electric power for charging the battery device.”. In an exemplary embodiment of the invention according to claim 1, as detailed at paragraph 0095 of the specification, when the controller corrects the fuel consumption rate according to claim 1, as a result,

an operating point at which fuel economy is improved can be set even when no operating point exists at which an equal fuel consumption rate to the target consumption rate can be realized. An even better fuel economy improvement effect can be expected if a larger value than the target fuel consumption rate or an equal value to the target fuel consumption rate is used as the aforementioned predetermined value.

Yamaguchi does not disclose such a feature, nor does it disclose the advantages that flow therefrom. (It is respectfully noted that the otherwise thorough evaluation of Yamaguchi presented in the Office Action does not address this feature.) In Yamaguchi, there is no correction of the fuel consumption rate when an operating point at which a fuel consumption

rate that is equal to a target fuel consumption rate can be realized *is not found*. In Yamaguchi, if such an operating point is not found among the various possible operating points, the internal combustion engine is shut down and the vehicle is then propelled only by electric motor. (See, for example, paragraphs 0095-0099 of Yamaguchi.)

In summary, Yamaguchi does not anticipate claim 1, and thus cannot anticipate the claims that depend from claim 1. Claims 6, 12, 16, 17 and 18 and their respective dependencies are likewise allowable for at least the reasons that make claim 1 allowable.

Claim Rejections Under 35 U.S.C. §103(a)

In the Office Action, Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yamaguchi in view of Taniguchi (U.S. Patent No. 5,846,155) and Coates (U.S. Patent No. 6,462,551). Applicants respectfully traverse the rejection as to the claims above, and submit that these claims are allowable for at least the following reasons.

As noted above, Yamaguchi does not teach the elements of claim 6, the claim from which claim 8 ultimately depends. As Taniguchi and Coates fail to remedy the deficiencies of Yamaguchi, the third requirement of MPEP § 2143 is not satisfied in the Office Action, because the cited references do not teach each and every element of the present invention.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to

Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Examiner Walters is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

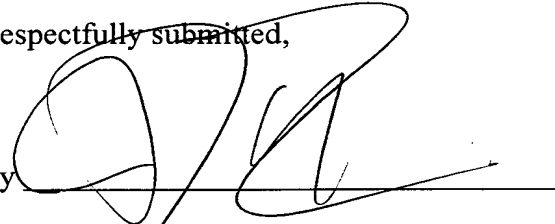
Date

Per 08/2005

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4747
Facsimile: (202) 672-5399

Respectfully submitted,

By



Martin J. Cosenza
Attorney for Applicant
Registration No. 48,892